

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 18 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JAYANTILAL CHUNILAL SHAH & ORS.

Versus

STATE OF GUJARAT & ORS.

Appearance:

MR HB SHAH for Petitioners
MR NN PANDYA for Respondent No. 1,2,4,5
None present for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/07/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioners have made a grievance in this Special Civil Application against the proposal of the State Government to construct a Sub Jail in Survey No.5256 and the part of road on which the said Survey number abuts assimilate for the purpose of construction of building of Sub Jail.

2. Grievance of the petitioners is that the respondent No.2 Panchayat has passed a Resolution on March 8, 1978 approving the said suggestion of the Government, though this approval was not in accordance with the original development plan published under the Panchayat's Resolution dated August 26, 1969. All the petitioners are residents within the limits of Idar Nagar Panchayat. This Court has protected the petitioners by granting Ad-interim injunction in terms of para 31(a) & 31(b), which reads as under:

"31. Pending hearing and final disposal of this petition, the Honourable Court may be pleased to issue an injunction:

(a) restraining respondents No.1, 3 and 4 from proceeding with the construction of the building of the Sub-jail in Survey No.5256 and a part of the road on which the said Survey number abuts in the town of Idar in Sabarkantha District;

(b) restraining respondents No.1 and 5 from taking possession or putting up any construction on the portion of the road on the basis of the order dated 25.3.1981 made by the Collector at Annexure 'O' to the petition."

3. The respondents No.1, 3, 4 & 5 were restrained from taking possession of the land as well as from making any construction of the building of Sub Jail in Survey No.5256 and on the part of road on which said Survey number was abutting, in the town of Idar, Dist. Sabarkantha, and this Ad-interim injunction continues till this date. Both the counsel for the petitioners and respondents are unable to give out whether the Sub Jail has been constructed at some other place or not. Both have stated that they have no instructions in the matter regarding what is the position today. Be that as it may. The facts remain that this Court has, by granting interim relief, restrained the respondents from raising construction of Sub Jail, and as such the Sub Jail has not been constructed on the land comprising Survey No.5256.

4. Interest of justice will be served in case this Special Civil Application is disposed with a direction that in case the respondents still intend to raise construction of Sub Jail on the land comprising Survey No.5256, Idar, then before doing so, they will give an opportunity of hearing to the petitioners and only after

hearing them, appropriate decision may be taken. With these observations the Special Civil Application is disposed of and Rule is made absolute in aforesaid terms with no order as to costs.

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(sunil)